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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,231	07/18/2003	James D. Mohler	C0031	2713
21495	7590	06/22/2004	EXAMINER	
CORNING CABLE SYSTEMS LLC			NASRI, JAVAID H	
P O BOX 489			ART UNIT	PAPER NUMBER
HICKORY, NC 28603			2839	

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/623,231	Applicant(s) MOHLER ET AL. 	
	Examiner Javaid Nasri	Art Unit 2839	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-23 is/are allowed.
- 6) ☒ Claim(s) 24,26,27 and 30 is/are rejected.
- 7) ☒ Claim(s) 25,28 and 29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/18/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to because:
 - a) Numeral “14a” is not marked on any drawing. Refer to specification page 4, line 2.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Abstract

2. The abstract of the disclosure is objected to because:
 - a) On page 9, delete “and is”. Note: “and is” appears twice.

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 24, 26, 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitz et al (cited in IDS, 6,370,303).

Fitz et al discloses at least one optical waveguide; at least one strength member (20), the at least one strength member being a steel (see col. 8, lines 6 and 7); and a jacket (22), the jacket being formed from a polymeric material having fillers, the strength member having coating (see col. 8, lines 35-46), the cable being dry design.

However, Fitz et al does not disclose:

a) Annealed steel. The term “annealed” is a process limitation that has not been given patentable weight in the claim because the USPTO is not equipped to fabricate devices such as strength members by the various processes by which they can be made. The burden is therefore shifted to applicant to provide proof that “annealed” steel has different material properties than steel made by other processes.

Allowable Subject Matter

5. Claims 1-23 are allowed.

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6. Claims 25, 28 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

REASONS FOR ALLOWANCE

7. The following is an examiner's statement of reasons for allowance:

The reason for allowance of the claims is the inclusion of the limitation,

- a) For claims 12 and 25, none of the prior art teaches or suggest, alone or in combination the strength member having a carbon content in the range of about 0.30 percent to about 0.75 percent, in combination with other limitations in the claim which is not found in the prior art reference of record.
- b) For claims 1 and 28, none of the prior art teaches or suggest, alone or in combination, the strength member having an average residual angle in the range of about 30 degrees to about 65 degrees during a bending test using a mandrel to wire ratio (D/d) of about 200, in combination with other limitations in the claim which is not found in the prior art reference of record.
- c) For claim 29, none of the prior art teaches or suggest, alone or in combination, the strength member having an average residual angle in the range of about 35 degrees to about 60 degrees during a bending test using a mandrel to wire ratio (D/d) of about 200, in combination with other limitations in the claim which is not found in the prior art reference of record.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contact

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javaid Nasri whose telephone number is 571 272 2095. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on 571 272 2800 ext 39. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any correspondence to this action may be mailed to:

**Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450**

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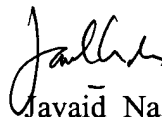
For additional information regarding this new address, which was effective May 1, 2003, see *Correspondence with the United States Patent and Trademark Office*, 68 Fed. Reg. 14332 (March 25, 2003).

Or faxed to: 703-308-7722 or 308-7724 (informal or draft communications should be clearly labeled "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Crystal Plaza 4, Fourth Floor (receptionist)

2201 South Clark Place, Arlington, Virginia



Javaid Nasri
Primary Examiner
Art Unit 2839

JN

jhn

June 16, 2004